

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Docket No.: 04-12654-RGS

FRED T. VANDAM,

Plaintiff,

vs.

DAVID M. MCSWEENEY,
TRUSTEE OF MCREALTY TRUST,
ROCKLAND LEASE FUNDING CORP.,
UNITED STATES OF AMERICA, AND
GENERAL ELECTRIC COMMERCIAL
EQUIPMENT FINANCING, a division of
GENERAL ELECTRIC CAPITAL CORP.

Defendants.

**PLAINTIFF/Defendant-in-Counterclaim, FRED T. VANDAM'S,
MEMORANDUM IN SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT**

I. BACKGROUND

The Plaintiff/Defendant-in Counterclaim, Fred T. Vandam ("Plaintiff"), moves this Honorable Court to enter Summary Judgment in its favor on all counts of the Defendant, David M. McSweeney, Trustee of McRealty Trust's ("Defendant") Counterclaims. Specifically, the Plaintiff moves for Summary Judgment as to Count I (Breach of Contract); Count II (Violation of G.L. c. 244, §§20 & 36); Count III (Usury); Count IV (Violation of Implied Covenant of Good Faith and Fair Dealing); and Count V (Violation of G.L. c. 93A) of Defendant's Counterclaims pursuant to Fed.R.Civ.P. 56. In support, the Plaintiff states the following.

II. STATEMENT OF UNDISPUTED FACTS

1. On or about April 24, 2004, the Plaintiff, as first mortgagee, sold by foreclosure auction sale a certain parcel of real property located and known as 105 Homes Ave., Dorchester, Suffolk County, Massachusetts ("Real Property"). The Defendant was the title-holder and mortgagor of said Real Property. (See Copy of Complaint attached hereto as Exhibit 1, ¶¶ 8-9; see also Plaintiff's Request for Admissions, which Defendant failed to answer, attached hereto as Exhibit 2).

2. The foreclosure auction sale was for breach of condition pursuant to a Power of Sale contained in a certain first mortgage on the premises dated June 5, 2000 and recorded at the Suffolk County Registry of Deeds in Book 25020, Page 314. The foreclosure auction sale realized monies in the sum of \$310,000.00. Plaintiff retained the sum of \$249,777.96 from the sale proceeds representing the following:

- a. \$ 90,068.08 in outstanding principal due on the Note;
- b. \$ 27,115.00 in interest, late charges and insufficient funds fees;
- c. \$102,932.41 in Boston City taxes;
- d. \$ 4,500.00 in legal fees to Hogan, Roach & Malone;
- e. \$ 10,794.00 in auctioneer fees and costs to Paul Saperstein;
- f. \$ 7,641.10 in foreclosure fees;
- g. \$ 2,957.87 in foreclosure costs;
- h. \$ 2,113.00 in bankruptcy fees;
- i. \$ 12.75 in bankruptcy costs; and
- j. \$ 2,904.67 in interest on tax lien payoff.

3. The remaining proceeds from the foreclosure auction, in the amount of \$58,961.12, was being held by the Plaintiff in a non-interest bearing account ("Surplus").

4. On or about October 5, 2004, the Plaintiff filed an action in interpleader to determine the rights to the Surplus. The case was originally filed in Suffolk Superior Court, C.A. No.: 04-4389.

5. On or about December 20, 2004, the case was removed to the United States District Court for the District of Massachusetts and was assigned C.A. No.: 04-12654

6. On or about February 9, 2005, the Plaintiff filed an Amended Complaint to properly name the Plaintiff.

7. On or about February 24, 2005, the Defendant filed his Answer and Counterclaim alleging: Count I (Breach of Contract); Count II (Violation of G.L. c. 244, §§20 & 36); Count III (Usury); Count IV (Violation of Implied Covenant of Good Faith and Fair Dealing); and Count V (Violation of G.L. c. 93A). No other defendants filed claims against the Plaintiff.

8. On or about February 24, 2005, the Plaintiff filed a Motion for Leave to Make Deposit in Court and for Award of Attorneys' Fees and Costs. On or about March 8, 2005, the Defendant filed his Opposition to Plaintiff's Motion for Leave to Make Deposit in Court and Award for Attorneys' Fees and Costs.

9. On or about March 10, 2005, the Plaintiff filed his Answer to the Counterclaim.

10. On or about March 15, 2005, this Court entered an Order allowing Plaintiff's Motion to Deposit stating:

“The deposit does not prejudice the right of defendant to contest the amount of surplus. The court on the other hand finds the attorneys' fees and costs to be well-documented and reasonable.”

11. On May 17, 2005, a Scheduling Conference was held and this Court instructed only the Plaintiff and Defendant to conduct the necessary discovery because no other defendants had filed counterclaims against the Plaintiff.

12. On or about May 19, 2005, the Defendant served his First Request for Production of Documents to the Plaintiff.

13. On June 17, 2005, Defendant's attorney filed his Motion for Withdraw as Counsel for Defendant. On that same date, Plaintiff's counsel propounded his First Set of Interrogatories and First Set of Requests for Production of Documents to the Defendant. Per an agreement between the Plaintiff and Defendant, no action was to be taken on discovery until a decision was made on Defendant's counsel's Motion for Withdraw. (A copy of the Plaintiff's June 17, 2005, letter is attached hereto as Exhibit 3).

14. On June 27, 2005, this Court entered an Order granting Defendant's Counsel's Motion for Withdraw.

15. On July 5, 2005, Plaintiff's counsel contacted prior Defendant's counsel to inquire whether successor counsel had been retained. Defendant's counsel informed Plaintiff's counsel that the Defendant had not retained successor counsel and was representing himself. Plaintiff's counsel requested the proper address of the Defendant from Defendant's counsel and was given the Real Property's address.

16. On July 5, 2005, the Plaintiff served upon the Defendant,

- Plaintiff's Request for Admissions Propounded Upon the Defendant.

(See Exhibit 2)

17. Defendant failed to serve a response to Plaintiffs Request for Admissions within thirty days after service of the Request.¹

18. Pursuant to Fed.R.Civ.P. 36(a), "[e]ach matter of which an admission is requested ... is admitted unless, within 30 days after service of the request, ... the party to whom the

¹ The Defendant has also failed to serve his Automatic Disclosures in violation of the Court's Order. In addition, the Defendant has failed to respond to any of the Plaintiff's discovery, including Requests for Production of Documents and Interrogatories.

request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or the party's attorney."

19. Pursuant to Fed.R.Civ.P. 36(b), "[a]ny matter admitted under this rule is conclusively established"

20. Summary judgment is appropriate where there are no genuine issues as to any material fact and where the moving party is entitled to judgment as a matter of law.

Commonwealth v. One 1987 Mercury Cougar Automobile, 413 Mass. 534, 600 (1992);

Community National Bank v. Dawes, 369 Mass. 550, 553 (1976); Fed.R.Civ.P. 56(c).

21. As admitted in the Request for Admissions [See Exhibit 2],

- "1. On or about June 1, 2000, Defendant executed a Note as a Borrower for a loan in the amount of \$125,000.00 from Plaintiff, with a yearly interest rate of 10.0%."
2. The Note required Defendant to make monthly payments in the amount of \$1,652.00, on the 1st day of each consecutive month beginning on July 1, 2000 for ten (10) years,
3. The Note allows a late charge, equal to 1% of the overdue payment of principal and interest, in the event any monthly payment is late by fifteen (15) days or more.
4. On or about June 5, 2000, Defendant executed a First Mortgage on 105 Homes Avenue, Dorchester, Suffolk County, Massachusetts, containing a Power of Sale provision.
5. The Mortgage was recorded on or about June 6, 2005, with the Suffolk Registry of Deeds in Book 25020, Page 314.
6. The Mortgagor was the Defendant, and the mortgagee was the Plaintiff.
7. The Defendant failed to make his monthly payments in compliance with the Note.
8. On or about April 24, 2004, the Plaintiff, as first mortgagee, properly sold by foreclosure auction sale a certain parcel of real property located and known as 105 Homes Avenue, Dorchester, Massachusetts.

11. Plaintiff properly retained the sum of \$251,038.88 from the sale proceeds...
12. The Plaintiff provided the Defendant with a timely and proper accounting relating to the application of monies received from the foreclosure auction sale.
13. The Plaintiff calculated and charged interest and penalties in compliance with the Note.
14. The Plaintiff's actions and/or conduct complied with the covenant of good faith and fair dealing.
15. The Plaintiff's actions and/or conduct was not in violation of the consumer protection statute, and was not fraudulent and/or deceptive.

18. The Defendant cannot establish the elements necessary to prove his Counterclaims alleging Breach of Contract (Count I); Violation of G.L. c. 244, §§ 20 and 36 (Count II); Usury (Count III); Violation of Implied Covenant of Good Faith and Fair Dealing (Count IV); and Violation of 93A (Count V).
19. Pursuant to the terms of the Mortgage, the Plaintiff's reasonable attorneys' fees and costs in defense of this action are recoverable from the surplus proceeds."

22. Since the Defendant has admitted that he breached the terms and conditions of the Note and that the Surplus proceeds were properly applied, no triable issue exists. In addition, since there are no other claims against the Plaintiff from any of the remaining defendants, summary judgment in this case would essentially end this litigation.²

23. The Note also allows Plaintiff to recover his reasonable attorneys' fees and costs in defense of Defendant's Counterclaims, which the Defendant has admitted.

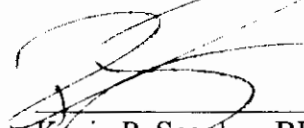
24. As of the date of the filing of this Motion for Summary Judgment, Plaintiff's counsel fees and disbursements are \$15,043.42. Plaintiff would request that this amount be released from the funds currently held by the Court. In support of Plaintiff's attorneys' fees and costs, the affidavit of Randy J. Spencer is attached hereto as Exhibit 4.

WHEREFORE, the Plaintiff, Fred T. Vandam, requests that summary judgment enter in his favor on all Counts of the Counterclaim and that Plaintiff recover, pursuant to the Note, his reasonable attorneys' fees and costs in defense of this action, in the total amount of \$15,043.42 from the funds currently held by this Court.

Respectfully submitted,
FRED T. VANDAM.

By his attorneys,

BARRON & STADFELD, P.C.



Kevin P. Scanlon, BBO: 564978
Randy J. Spencer, BBO: 653879
100 Cambridge St.
Boston, MA 02114
(617)723-9800

Dated: August 16, 2005

[330792]

² The remaining defendants would still need to determine how much each is owed but it is the Plaintiff's understanding that defendant, Rockland Lease Funding Corp. would be entitled to the remaining proceeds as it appears that are owed in excess of the Surplus and are ahead of the United States in order of priority.

CERTIFICATE OF SERVICE

I, Randy J. Spencer, hereby certify that on August 16, 2005 I served a copy of the foregoing by mailing a copy first class mail, postage prepaid to:

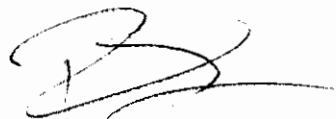
David M. McSweeney
105 Homes Avenue
Dorchester, MA 02010

Eric A. Howard, Esq.
Domestico, Lane & McNamara, LLP
The Meadows
161 Worcester Road
Framingham, MA 01701

Philip S. Levoff, Esq.
Law Offices of Philip S. Levoff
1172 Beacon Street, Suite 202
Newton, MA 02461-1150

Stephen J. Turanchik, Esq.
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Ben Franklin Station
Washington, DC 20044

Barbara Healy Smith, Esq.
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210



Randy J. Spencer

(SEAL)

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

To:

Case No. 293459

David M. McSweeney, Sr., Trustee of Mc Realty Trust;

SUFFOLK REGISTRY
OF DEEDS

NOV 12 2003

11/12 PM 10:17 M 291 M
RECEIVED FOR RECORD

and to all persons entitled to the benefit of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended:

Fred T. Van Dam

claiming to be the holder of
covering real
Homes Avenue

mortgage
property in Boston (Dorchester District), numbered 105

given by David M. McSweeney, Sr., Trustee of Mc Realty Trust to Fred T. Van Dam, dated June 5, 2000,
Recorded with the Suffolk County Registry of Deeds at Book 25020, on Page 314.

has filed with said court a complaint for authority to foreclose said mortgage

in the manner following: by entry and possession and exercise of power of sale.

If you are entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended and you
object to such foreclosure you or your attorney should file a written appearance and answer in said court at
Boston on or before the 8th day of December 2003, or you may be forever barred
from claiming that such foreclosure is invalid under said act.

Witness, Karyn F. Scheier, Chief Justice of said Court this

24th day of October

2003

Attest:

Ann-Marie J. Breuer
Deputy Recorder

BOSTON HERALD ADVERTISING

Date/Time: 11/11/03 2:23 PM
Order#: 648407
Classification: 470 - LAND COURT NOTICE
Price: \$ 272.22 (Rate:)
Customer: BARRON & STADFELD (Acct#: 6177239800L0)
50 STANIFORD ST,
BOSTON, MA 02114
Phone: 6177239800
Start Date: 11/14/03
End Date: 11/14/03
Insertions/Lines: 1 (37 Lines)
Sales Rep: R218
Printed For: JUDY

COMMONWEALTH OF MASSACHUSETTS LAND COURT DEPARTMENT OF THE TRIAL COURT

Case No. 293459
(SEAL) To David M. McSweeney, Sr., Trustee of Mc
Beatty Trust and to all persons entitled to the bene-
fit of the Soldiers and Sailors Civil Relief Act of
1940 as amended: Fred T. Van Dam claiming to be
the holder of a mortgage governing real property in
Boston (Dorchester District), numbered 105 Homes
Avenue, given by David M. McSweeney, Sr., Trustee
of Mc Beatty Trust to Fred T. Van Dam, dated June
5, 2000. Recorded with the Suffolk County Registry
of Deeds at Book 25020, on Page 314, has filed
with said court a complaint for authority to fore-
close said mortgage in the manner following: by
entry and possession and exercise of power of sale.

If you are entitled to the benefits of the Sol-
diers and Sailors Civil Relief Act of 1940 as
amended and you object to such foreclosure you
or your attorney should file a written appear-
ance and answer in said court at Boston on or
before the 8th day of December 2003, or you
may be forever barred from claiming that such
foreclosure is invalid under said act.

Witness, KARYN F. SCHEIER, Chief Justice of said
Court this 24th day of October 2003.

ANN-MARIE J. BREUER, Deputy Recorder.

Nov 14

OK

P. 01

TRANSACTION REPORT

NOV-11-2003 TUE 09:44 AM

FOR:

SEND

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
NOV-11	09:43 AM	4064#20973#10#617426 0901	1'04"	3	FAX TX	OK	496	

TOTAL : 1M 4S PAGES: 3

50 STANIFORD STREET
BOSTON, MA 02114
Phone: 617-723-9800
Fax: 617-523-8359

**BARRON &
STADFELD, P.C.**

Fax

To: LEGAL ADVERTISING

From: MICHELLE L. GREENOUGH,
FORECLOSURE ADMINISTRATOR

Fax: 617-426-0901

Date: 11/11/03

Phone:

Pages: 2 PLUS COVER

Re: MCSWEENEY/105 HOMES AVE.,
DORCHESTER

CC: 20973-1

•Comments:

50 STANIFORD STREET
BOSTON, MA 02114
Phone: 617-723-9800
Fax: 617-523-8359

**BARRON &
STADFELD, P.C.**

Fax

To: LEGAL ADVERTISING

From: MICHELLE L. GREENOUGH,
FORECLOSURE ADMINISTRATOR

Fax: 617-426-0901

Date: 11/11/03

Phone:

Pages: 2 PLUS COVER

Re: MCSWEENEY/105 HOMES AVE.,
DORCHESTER

CC: 209731

•Comments:

BARRON & STADFELD, P.C.

ATTORNEYS AT LAW
50 STANFORD STREET, SUITE 200
BOSTON, MA 02114

PHONE: 617-723-9800
FAX: 617-523-8359

November 11, 2003

VIA FAX

Boston Herald
One Herald Square
Boston, MA 02106

Re: Fred T. Van Dam v. David M. McSweeney, Sr., Trustee of Mc Realty Trust 'et al'
Case No. 293459

Dear Madam/Sir:

Enclosed please find an Order of Notice with respect to the above-referenced foreclosure proceeding. Kindly publish same AS SOON AS POSSIBLE in the Boston Herald. PLEASE FAX A PROOF PRIOR TO PUBLICATION AND INCLUDE THE COST OF THE AD WITH THE PROOF.

Immediately upon publication of the Order of Notice, please return a copy of the tear sheet to the undersigned's attention along with a statement for your services rendered. To ensure expeditious processing of your statements, please include the following reference on your invoices: 20973-1.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to call.

Very truly yours,



Michelle Greenough

Enclosure

(SEAL)

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

To:

Case No. 293459

David M. McSweeney, Sr., Trustee of Mc Realty Trust;

and to all persons entitled to the benefit of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended:

Fred T. Van Dam

claiming to be the holder of
covering real
Homes Avenue

mortgage
property in Boston (Dorchester District), numbered 105

given by David M. McSweeney, Sr., Trustee of Mc Realty Trust to Fred T. Van Dam, dated June 5, 2000,
Recorded with the Suffolk County Registry of Deeds at Book 25020, on Page 314.

has filed with said court a complaint for authority to foreclose said mortgage

in the manner following: by entry and possession and exercise of power of sale.

If you are entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended and you
object to such foreclosure you or your attorney should file a written appearance and answer in said court at
Boston on or before the 8th day of December 2003, or you may be forever barred
from claiming that such foreclosure is invalid under said act.

Witness, Karyn F. Scheier, Chief Justice of said Court this

24th day of October

2003

Attest:

Ann-Marie J. Breuer
Deputy Recorder

PUBLISH THE ABOVE COPY
RECORD THE ATTESTED COPY

BARRON & STADFELD, P.C.

ATTORNEYS AT LAW
50 STANFORD STREET, SUITE 200
BOSTON, MA 02114

PHONE: 617-723-9800

FAX: 617-523-8359

November 11, 2003

Norfolk County Deputy Sheriffs Office
2015 Washington Street P.O. Box 859215
Braintree, MA 02185-9215

Re: Fred T. Van Dam v. David M. McSweeney, Sr., Trustee of Mc Realty Trust 'et al'
Case No. 293459

Dear Madam/Sir:

Enclosed herewith please find two copies of the Order of Notice in the above-referenced case. Kindly serve one copy of the Order of Notice as soon as possible and in any event no later than NOVEMBER 17, 2003 on the following party:

David M. McSweeney, Sr., Trustee of Mc Realty Trust
26 Pleasant Street, Milton, Massachusetts 02186

Please return your Proof of Service on the Order of Notice, along with a statement for services rendered to the undersigned's attention. To ensure expeditious processing of your statement, please include the following reference on your invoices: 20973-1. If you have any questions, please do not hesitate to contact us. Thank you for your assistance in this matter.

Very truly yours,



Michelle Greenough

TVB/MG
Enclosures

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Docket No.: 04-12654 RGS

FRED T. VANDAM,

Plaintiff,

vs.

DAVID M. MCSWEENEY,
TRUSTEE OF MCREALTY TRUST,
ROCKLAND LEASE FUNDING CORP.,
UNITED STATES OF AMERICA, AND
GENERAL ELECTRIC COMMERCIAL
EQUIPMENT FINANCING, a division of
GENERAL ELECTRIC CAPITAL CORP.

Defendants.

**PLAINTIFF'S REQUEST FOR ADMISSIONS
PROPOUNDED UPON THE DEFENDANT,
DAVID M. MCSWEENEY, TRUSTEE OF MCREALTY TRUST**

NOW COMES the Plaintiff, Fred T. Vandam. ("Plaintiff"), pursuant to the Federal Rules of Civil Procedure 36(a), and requests that the Defendant, David M. McSweeney, Trustee of McRealty Trust ("Defendant"), admit to the truth of the matter set out below for the purposes of this action. Defendants are required to comply with the applicable time period, pursuant to Fed.R.Civ.P. 36(a).

The facts that you are requested to admit for the purpose of this action only are:

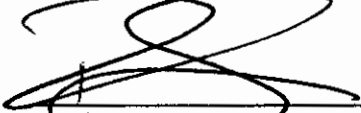
1. On or about June 1, 2000, Defendant executed a Note as a Borrower for a loan in the amount of \$125,000.00 from Plaintiff, with a yearly interest rate of 10.0%.
2. The Note required Defendant to make monthly payments in the amount of \$1,652.00, on the 1st day of each consecutive month beginning on July 1, 2000 for ten (10) years,

3. The Note allows a late charge, equal to 1% of the overdue payment of principal and interest, in the event any monthly payment is late by fifteen (15) days or more.
4. On or about June 5, 2000, Defendant executed a First Mortgage on 105 Homes Avenue, Dorchester, Suffolk County, Massachusetts, containing a Power of Sale provision.
5. The Mortgage was recorded on or about June 6, 2005, with the Suffolk Registry of Deeds in Book 25020, Page 314.
6. The Mortgagor was the Defendant, and the mortgagee was the Plaintiff.
7. The Defendant failed to make his monthly payments in compliance with the Note.
8. On or about April 24, 2004, the Plaintiff, as first mortgagee, properly sold by foreclosure auction sale a certain parcel of real property located and known as 105 Homes Avenue, Dorchester, Massachusetts.
9. The foreclosure auction sale was for breach of condition pursuant to a Power of Sale contained in the Mortgage.
10. The property was sold to a third party bidder, Michael Sylvester, for the sum of \$310,000.00.
11. Plaintiff properly retained the sum of \$251,038.88 from the sale proceeds representing the following:
 - a. \$90,068.08 in outstanding principal due on the note;
 - b. \$27,115.00 in interest, late charges and insufficient funds fees;
 - c. \$102,932.41 in taxes;
 - d. \$4,500.00 in legal fees to Hogan, Roach & Malone;
 - e. \$10,794.00 in auctioneer fees and costs to Paul Saperstein;
 - f. \$7,641.10 in foreclosure fees;
 - g. \$2,957.87 in foreclosure costs;
 - h. \$2,113.00 in bankruptcy fees;
 - i. \$12.75 in bankruptcy costs; and
 - j. \$2,904.67 in interest on tax lien payoff.
12. The Plaintiff provided the Defendant with a timely and proper accounting relating to the application of monies received from the foreclosure auction sale.
13. The Plaintiff calculated and charged interest and penalties in compliance with the Note.
14. The Plaintiff's actions and/or conduct complied with the covenant of good faith and fair dealing.
15. The Plaintiff's actions and/or conduct was not in violation of the consumer protection statute, and was not fraudulent and/or deceptive.

16. The Defendant's Counterclaim are invalid.
17. The Defendant's Affirmative Defenses, as asserted in his Answer, are invalid.
18. The Defendant cannot establish the elements necessary to prove his Counterclaims alleging Breach of Contract (Count I); Violation of G.L. c. 244, §§ 20 and 36 (Count II); Usury (Count III); Violation of Implied Covenant of Good Faith and Fair Dealing (Count IV); and Violation of 93A (Count V).
19. Pursuant to the terms of the Mortgage, the Plaintiff's reasonable attorneys' fees and costs in defense of this action are recoverable from the surplus proceeds.

Respectfully submitted,
FRED T. VANDAM
By its attorneys,

BARRON & STADFIELD, P.C.



Kevin P. Scanlon, BBO No.: 564978
Randy J. Spencer, BBO No.: 653879
100 Cambridge Street
Boston, Massachusetts 02114
(617) 723-9800

Dated: July 5, 2005

[327535]

CERTIFICATE OF SERVICE

I, Randy J. Spencer, hereby certify that on July 5, 2005 I served a copy of the foregoing by mailing a copy first class mail, postage prepaid to David M. McSweeney, 105 Homes Avenue, Dorchester, MA 02010.



Randy J. Spencer

BARRON
& STADFELD PC
ATTORNEYS

100 CAMBRIDGE STREET SUITE 1310
BOSTON, MASSACHUSETTS 02114

DIRECT DIAL

(617) 531-6590

E-MAIL

rjs@barronstad.com

(617) 723-9800

FAX (617) 523-8359

WWW.BARRONSTAD.COM

June 17, 2005

David J. Paliotti, Esq.
Greenbaum, Nagel, Fisher & Hamelburg
200 High Street
Boston, MA 02110

Re: Fred T. VanDam v. David M. McSweeney, Trustee of McRealty Trust, et al.
Docket No.: 04-12654 RGS

Dear Attorney Paliotti:

Enclosed, please find:

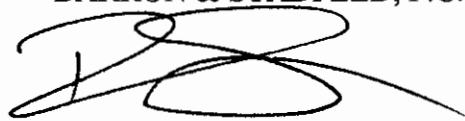
1. Plaintiff, Fred T. VanDam's First Set of Interrogatories to be Answered by the Defendant, David M. McSweeney, Trustee of McRealty Trust; and
2. Plaintiff, Fred T. VanDam's First Request for Production of Documents to the Defendant, David M. McSweeney, Trustee of McRealty Trust.

Per our agreement, we do not expect you to take action on same until a decision has been made on your Motion to Withdraw.

If you have any questions or concerns, please contact me.

Sincerely yours,

BARRON & STADFELD, P.C.



Randy J. Spencer

RJS/

Enclosures

[326250]

cc: Kevin P. Scanlon, Esq.
Eric A. Howard, Esq.
Philip S. Levoff, Esq.
Stephen J. Turanchik, Esq.
Barbara Healy Smith, Esq.

14
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Docket No.: 04-12654 RGS

FRED T. VANDAM,

Plaintiff,

vs.

DAVID M. MCSWEENEY,
TRUSTEE OF MCREALTY TRUST,
ROCKLAND LEASE FUNDING CORP.,
UNITED STATES OF AMERICA, AND
GENERAL ELECTRIC COMMERCIAL
EQUIPMENT FINANCING, a division of
GENERAL ELECTRIC CAPITAL CORP.

Defendants.

AFFIDAVIT OF RANDY J. SPENCER

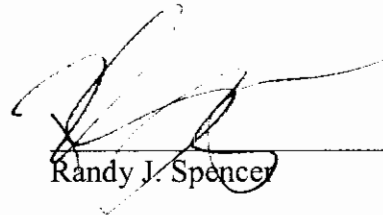
I, Randy J. Spencer, under oath duly depose and say the following:

1. I am an associate with the law firm of Barron & Stadfeld, P.C., which represents the plaintiff, Fred T. Vandam, in the above-captioned interpleader action.
2. A true and accurate copy of a billing memorandum has been annexed hereto, which was produced from Barron & Stadfeld, P.C.'s business records and which was created contemporaneously with the transactions in question and maintained in the regular course of business.
3. The attorneys' fees for the services rendered by Barron & Stadfeld, P.C. in connection with the defense of defendant, David M. McSweeney's counterclaims are in the amount of \$14,395.93, as shown in the attached billing memorandum. In addition,

Barron & Stadfeld, P.C. has incurred costs, including the filing fee, costs of summons and constable's fees of \$647.49.

4. Barron & Stadfeld, P.C. has received no compensation or reimbursement for the above fees and expenses from any source.

Signed under the penalties of perjury this 16th day of August, 2005.



Randy J. Spencer

331298

Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Page 1

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Billing Attorney

0183 KEVIN P. SCANLON

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

C/O RANDY J. SPENCER
BARRON & STADFELD, P.C.
100 CAMBRIDGE STREET
SUITE 1310
BOSTON, MA 02114

**** Unbilled Time ****

Date	Attorney	Time	Rate	Value	Diary
* 03/17/05	0142 MICHELLE L.	0.10	110	11.00	DISCUSSION WITH RS RE: FIGURES
	Total For Month	0.10		11.00	
04/06/05	0183 KEVIN P. SCANLON	0.30	240	72.00	REVIEW SCHEDULING ORDER FROM COURT; CONFERENCE WITH RANDY J. SPENCER RE SAME
04/06/05	0246 RANDY J. SPENCER	0.10	160	16.00	RECEIVE AND REVIEW NOTICE OF SCHEDULING CONFERENCE
04/06/05	0246 RANDY J. SPENCER	0.50	160	80.00	REVIEW FILE IN PREPARATION FOR SCHEDULING CONFERENCE
04/06/05	0246 RANDY J. SPENCER	0.80	160	128.00	REVIEW FILE IN PREPARATION FOR SCHEDULING CONFERENCE
04/06/05	0254 ANDREW GILBERT	0.20	75	15.00	CONFERENCE WITH RANDY SPENCER REGARDING MATTER HISTORY, LEFT VOICEMAIL WITH CLIENT PROVIDING MY CONTACT INFORMATION AND A REQUEST FOR LOAN PAYMENT HISTORY
04/08/05	0246 RANDY J. SPENCER	0.20	160	32.00	TELEPHONE CALL FROM ATTORNEY D. BOOK REGARDING SURPLUS (JUDGMENT CREDITOR)
04/12/05	0254 ANDREW GILBERT	0.20	75	15.00	PHONE WITH CLIENT TO OBTAIN LOAN HISTORY
04/20/05	0183 KEVIN P. SCANLON	0.40	240	96.00	CONFERENCE WITH RANDY J. SPENCER RE SCHEDULING CONFERENCE; INITIAL DISCLOSURE; DEFENDANT'S COUNTERCLAIMS; PREPARING DISCOVERY SCHEDULE
04/20/05	0246 RANDY J. SPENCER	2.00	160	320.00	REVIEW FILE IN PREPARATION FOR AUTOMATIC DISCLOSURE
04/20/05	0246 RANDY J. SPENCER	0.30	160	48.00	MEETING WITH KEVIN P. SCANLON REGARDING STRATEGY
04/20/05	0246 RANDY J. SPENCER	0.10	160	16.00	TELEPHONE CALL TO PHIL LEVOFF (ROCKLAND) REGARDING STATUS
04/21/05	0246 RANDY J. SPENCER	0.20	160	32.00	TELEPHONE CALL FROM/TO ATTORNEY PHIL LEVOFF REGARDING HEARING AND DISCOVERY DATES
04/22/05	0246 RANDY J. SPENCER	0.10	160	16.00	TELEPHONE CALL FROM PHIL LEVOFF REGARDING MEMO

* = Late

Page 2

Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

**Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER**

Billing Attorney

0183 KEVIN P. SCANLON

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

**** Unbilled Time ****

Date	Attorney	Time	Rate	Value	Diary
04/22/05	0246 RANDY J. SPENCER	0.10	160	16.00	TELEPHONE CALL TO PHIL LEVOFF REGARDING JOINT STATEMENT
04/22/05	0246 RANDY J. SPENCER	2.00	160	320.00	DRAFT JOINT STATEMENT
04/22/05	0246 RANDY J. SPENCER	0.30	160	48.00	DRAFT 16.1 (D)(3) CERTIFICATION
04/23/05	0183 KEVIN P. SCANLON	0.30	240	72.00	REVIEW AND EDIT JOINT DISCOVERY SCHEDULE
04/24/05	0246 RANDY J. SPENCER	0.40	160	64.00	REVISE JOINT MEMO AND 16.1 CERTIFICATION
04/25/05	0183 KEVIN P. SCANLON	0.10	240	24.00	CONFERENCE WITH RANDY J. SPENCER RE REVIEW SCHEDULING ORDER; BRIEFLY REVIEW SAME
04/25/05	0246 RANDY J. SPENCER	0.40	160	64.00	TELEPHONE CALL TO/FROM STEVEN TURNACHIK REGARDING CONFERENCE MEMO
04/26/05	0183 KEVIN P. SCANLON	0.20	240	48.00	REVIEW AND EDIT SCHEDULING ORDER; CONFERENCE WITH RANDY J. SPENCER RE SAME
04/27/05	0246 RANDY J. SPENCER	0.20	160	32.00	REVISE JOINT MEMO
04/27/05	0246 RANDY J. SPENCER	0.10	160	16.00	E-MAIL TO ALL PARTIES DRAFT MEMO
	Total For Month	9.50		1,590.00	
05/05/05	0246 RANDY J. SPENCER	0.20	160	32.00	TELEPHONE CALL FROM FRED VANDAM REGARDING BILL AND MORTGAGE HISTORY
05/05/05	0254 ANDREW GILBERT	0.10	75	7.50	FOLLOW WITH CLIENT MULTIPLE TIMES FOR COPY OF LOAN HISTORY
05/06/05	0183 KEVIN P. SCANLON	0.50	240	120.00	CONFERENCE WITH RANDY J. SPENCER RE SETTLEMENT PROPOSAL PER LOCAL RULE 16.1(C); REVIEW AND EDIT SAME; CONFERENCE WITH RANDY J. SPENCER RE SAME
05/06/05	0246 RANDY J. SPENCER	1.80	160	288.00	DRAFT SETTLEMENT PROPOSAL TO DEFENDANT, MCSWEENEY
05/09/05	0246 RANDY J. SPENCER	1.10	160	176.00	DRAFT AUTOMATIC DISCLOSURES
05/10/05	0113 JOSEPH G. BUTLER	0.20	290	58.00	.CONFERENCE W/ RANDY SPENCER RE CLIENT'S ACCOUNTING, AMORTIZING DEBT AND WHETHER CALCULATIONS WERE DONE CORRECTLY
05/10/05	0183 KEVIN P. SCANLON	0.40	240	96.00	CONFERENCE WITH RANDY J. SPENCER RE AUTOMATIC DISCLOSURE AND SCHEDULING CONFERENCE
05/10/05	0246 RANDY J. SPENCER	2.70	160	432.00	PREPARE/REVIEW DOCS IN PREPARATION FOR HEARING
05/10/05	0246 RANDY J. SPENCER	0.10	160	16.00	RECEIVE AND REVIEW 16.1(D)(3) CERT OF ROCKLAND
05/10/05	0254 ANDREW GILBERT	0.15	75	11.25	MESSAGE TO CLIENT FOR LOAN HISTORY
05/11/05	0246 RANDY J. SPENCER	2.30	160	368.00	REVIEW PAYMENT HISTORY FOR ACCOUNTING PURPOSES

Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Page 3

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Billing Attorney

0183 KEVIN P. SCANLON

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

**** Unbilled Time ****

Date	Attorney	Time	Rate	Value	Diary
05/12/05	0183 KEVIN P. SCANLON	0.20	240	48.00	CONFERENCE WITH RANDY J. SPENCER RE MEETING WITH CLIENT AND CALCULATIONS OF INTEREST AND PRINCIPAL
05/13/05	0183 KEVIN P. SCANLON	0.50	240	120.00	PREPARE FOR MEETING WITH CLIENT; METING WITH SAME
05/16/05	0183 KEVIN P. SCANLON	0.40	240	96.00	CONFERENCE WITH RANDY J. SPENCER RE MEETING WITH CLIENT; STATUS AND SCHEDULING CONFERENCE
05/17/05	0142 MICHELLE L.	0.15	110	16.50	DISCUSSION WITH KEVIN SCANLON RE: BANKRUPTCY AND LITIGATION WITH INTERPLEADER ACTION
05/17/05	0183 KEVIN P. SCANLON	0.20	240	48.00	LETTER TO CLIENT; MEMO TO FILE
05/17/05	0183 KEVIN P. SCANLON	1.30	240	312.00	PREPARE FOR SCHEDULING CONFERENCE; CONFERENCE WITH RANDY J. SPENCER RE FACTS, BACKGROUND; REVIEW FILES RE SAME; CONFERENCE WITH MICHELLE L. GREENOUGH RE BANKRUPTCY ACTION
05/17/05	0183 KEVIN P. SCANLON	1.00	240	240.00	ATTEND SCHEDULING CONFERENCE AT FEDERAL COURT; CONFERENCE WITH COUNSEL; TRAVEL BACK TO BOSTON
05/17/05	0246 RANDY J. SPENCER	1.30	160	208.00	PREPARE FOR CONFERENCE
05/19/05	0183 KEVIN P. SCANLON	0.10	240	24.00	LETTER TO CLIENT RE STATUS
05/20/05	0246 RANDY J. SPENCER	0.10	160	16.00	RECEIVE AND REVIEW DAVID MCSWEENEY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO VAN DAM
05/24/05	0183 KEVIN P. SCANLON	2.50	240	600.00	REVIEW FILE AND DOCUMENTS TO BE PRODUCED TO DEFENDANT MCSWEENEY; CONFERENCE WITH RANDY J. SPENCER RE SAME
05/25/05	0183 KEVIN P. SCANLON	0.60	240	144.00	REVIEW DOCUMENTS TO BE PRODUCED; CONFERENCE WITH KERRY PAUL CHOI RE ATTORNEY/CLIENT PRIVILEGE OF BARRON & STADFELD LEGAL BILLS
05/25/05	0183 KEVIN P. SCANLON	0.10	240	24.00	CONFERENCE WITH RANDY J. SPENCER RE DEFENDANT MCSWEENEY'S MOTION TO WITHDRAW
05/25/05	0246 RANDY J. SPENCER	1.00	160	160.00	PREPARE DOCUMENTS FOR AUTOMATIC DISCLOSURE
05/25/05	0246 RANDY J. SPENCER	0.10	160	16.00	RECEIVE AND REVIEW ATTORNEY PALLIOTTI'S E-MAIL REGARDING MOTION TO WITHDRAW
05/25/05	0246 RANDY J. SPENCER	0.10	160	16.00	E-MAIL ATTORNEY PALLIOTTI RESPONDING TO HIS E-MAIL
05/25/05	0246 RANDY J. SPENCER	0.10	160	16.00	TELEPHONE CALL TO PHIL LEVOFF REGARDING ATTORNEY PALLIOTTI'S MOTION TO WITHDRAW

Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Billing Attorney

Originating Attorney

Responsible Attorney

0183 KEVIN P. SCANLON

0008 THOMAS V. BENNETT

0246 RANDY J. SPENCER

**** Unbilled Time ****

Date	Attorney	Time	Rate	Value	Diary
05/26/05	0246 RANDY J. SPENCER	1.30	160	208.00	DRAFT PLAINTIFF'S RESPONSE TO DEFENDANT'S REQUEST FOR PRODUCTION OF DOCUMENTS
05/27/05	0183 KEVIN P. SCANLON	0.40	240	96.00	REVIEW E-MAILS FROM MCSWEENEY'S COUNSEL RE MOTION TO IMPOUND; OBJECT TO SAME; CONFERENCE WITH RANDY J. SPENCER RE SAME; REVIEW E-MAILS FROM ATTORNEY LEVOFF RE SAME; FILE DOCUMENTS
05/27/05	0246 RANDY J. SPENCER	0.10	160	16.00	RECEIVED AND REVIEWED D. PALIOTTI'S E-MAIL RE: MOTION TO IMPOUND
05/27/05	0246 RANDY J. SPENCER	0.10	160	16.00	RECEIVED AND REVIEWED P. LEVOFF'S E-MAIL RE: OBJECTION TO MOTION TO IMPOUND
05/27/05	0246 RANDY J. SPENCER	0.20	160	32.00	DRAFT RESPONSE TO PALIOTTI'S E-MAIL RE: OBJECTION TO IMPOUND
Total For Month		21.40		4,077.25	
06/01/05	0183 KEVIN P. SCANLON	0.20	240	48.00	REVIEW DEFENDANT MCSWEENEY'S MOTION TO IMPOUND; CONFERENCE WITH RANDY J. SPENCER RE OPPOSITION TO SAME
06/01/05	0183 KEVIN P. SCANLON	0.40	240	96.00	REVIEW AND EDIT OPPOSITION TO MOTION TO IMPOUND; CONFERENCE WITH RANDY J. SPENCER RE SAME
06/01/05	0246 RANDY J. SPENCER	1.00	160	160.00	DRAFT OPPOSITION TO MOTION TO IMPOUND
06/01/05	0246 RANDY J. SPENCER	0.20	160	32.00	CONVERSATION WITH KEVIN P. SCANLON REGARDING OPPOSITION
06/02/05	0246 RANDY J. SPENCER	0.30	160	48.00	REVISE OPPOSITION TO MOTION TO IMPOUND AFFIDAVIT
06/02/05	0246 RANDY J. SPENCER	0.10	160	16.00	LETTER TO COURT REGARDING OPPOSITION
06/03/05	0183 KEVIN P. SCANLON	0.10	240	24.00	REVIEW ORDERS FROM COURT
06/03/05	0246 RANDY J. SPENCER	0.20	160	32.00	TELEPHONE CALL FROM PHIL LEVOFF REGARDING OPPOSITION TO MOTION TO IMPOUND
06/09/05	0246 RANDY J. SPENCER	0.20	160	32.00	RECEIVE AND REVIEW OBJECTION OF P. LEVOFF TO MOTION TO IMPOUND
06/15/05	0183 KEVIN P. SCANLON	0.40	240	96.00	CONFERENCE WITH RANDY J. SPENCER RE STATUS AND STRATEGY; LETTER TO CLIENT; CALENDAR DISCOVERY DEADLINE
06/15/05	0246 RANDY J. SPENCER	1.50	160	240.00	DRAFT INTERROGATORIES TO DEFENDANT MCSWEENEY
06/15/05	0246 RANDY J. SPENCER	1.50	160	240.00	DRAFT REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT MCSWEENEY

Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Page 5

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

Billing Attorney

0183 KEVIN P. SCANLON

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

**** Unbilled Time ****

Date	Attorney	Time	Rate	Value	Diary
06/16/05	0183 KEVIN P. SCANLON	2.20	240	528.00	REVIEW AND EDIT DISCOVERY; REQUESTS FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES TO DEFENDANT
06/16/05	0246 RANDY J. SPENCER	0.40	160	64.00	REVISE INTERROGATORIES TO DEFENDANT MCSWEENEY
06/16/05	0246 RANDY J. SPENCER	0.60	160	96.00	REVISE REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT MCSWEENEY
06/16/05	0246 RANDY J. SPENCER	0.10	160	16.00	LETTER TO ATTORNEY PALIOTTI REGARDING INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS
06/20/05	0246 RANDY J. SPENCER	0.10	160	16.00	RECEIVE AND REVIEW DEFENDANT MCSWEENEY'S MOTION TO WITHDRAW FILED WITH COURT
06/28/05	0183 KEVIN P. SCANLON	0.20	240	48.00	REVIEW ORDER FROM COURT RE DEFENDANT'S ATTORNEY'S WITHDRAWAL; CONFERENCE WITH RANDY J. SPENCER RE STRATEGY AND DISCOVERY
06/29/05	0246 RANDY J. SPENCER	0.30	160	48.00	REVIEW DOCUMENTS IN PREPARATION FOR REQUEST FOR ADMISSIONS
06/30/05	0183 KEVIN P. SCANLON	0.40	240	96.00	REVIEW AND EDIT REQUEST FOR ADMISSIONS TO DEFENDANT; CONFERENCE WITH RANDY J. SPENCER RE SAME
06/30/05	0246 RANDY J. SPENCER	1.30	160	208.00	DRAFT REQUEST FOR ADMISSIONS TO DEFENDANT MCSWEENEY
	Total For Month	11.70		2,184.00	
07/21/05	0183 KEVIN P. SCANLON	0.20	240	48.00	CONFERENCE WITH RANDY J. SPENCER RE STATUS OF DISCOVERY; REVIEW FILE RE SAME
	Total For Month	0.20		48.00	

Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Page 6

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

Billing Attorney

0183 KEVIN P. SCANLON

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

**** Unbilled Time ****

Date	Attorney	Time	Rate	Value	Diary
08/09/05	0246 RANDY J. SPENCER	2.00	160	320.00	DRAFT MOTION FOR SUMMARY JUDGMENT
08/11/05	0183 KEVIN P. SCANLON	0.60	240	144.00	REVIEW AND EDIT SUMMARY JUDGMENT MOTIONS
08/15/05	0246 RANDY J. SPENCER	0.40	160	64.00	DRAFT MOTION FOR SUMMARY JUDGMENT
08/15/05	0246 RANDY J. SPENCER	1.20	160	192.00	REVISE MEMO IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT
Total For Month		4.20		720.00	
Total Unbilled Time		47.10		8,630.25	

**** Attorney Summary ****

Attorney	Last Diary	Last Entry	--- Prior --- Time	--- Value	--- Current --- Time	--- Value	--- Total --- Time	--- Value
0183 KEVIN P. SCANLON	08/12/05	08/11/05	13.60	3,264.00	0.60	144.00	14.20	3,408.00
0113 JOSEPH G. BUTLER	07/29/05	05/10/05	0.20	58.00			0.20	58.00
001 Partner Totals			13.80	3,322.00	0.60	144.00	14.40	3,466.00
0246 RANDY J. SPENCER	08/15/05	08/15/05	28.20	4,512.00	3.60	576.00	31.80	5,088.00
002 Associate Totals			28.20	4,512.00	3.60	576.00	31.80	5,088.00
0142 MICHELLE L. GREENOUGH	08/11/05	05/17/05	0.25	27.50			0.25	27.50
0254 ANDREW GILBERT	08/11/05	05/10/05	0.65	48.75			0.65	48.75
003 Paralegal Totals			0.90	76.25			0.90	76.25
Totals			42.90	7,910.25	4.20	720.00	47.10	8,630.25

**** Unbilled Disbursements ****

Class	Date	Attorney	Description	Amount
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Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Page 7

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

Billing Attorney

0183 KEVIN P. SCANLON

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

**** Unbilled Disbursements ****

Class	Date	Attorney	Description	Amount
001 TRAVEL - MILEAGE,PARKING,TOLLS	05/27/05	0183 KPS	Vendor 10065: CASH, Voucher 77277 TAXI TO/FROM OFFICE TO FED. CT	10.00
			001 TRAVEL - MILEAGE,PARKING,TOLLS	10.00
007 PHOTOSTATS	05/06/05		2926 - 8Copies	1.20
	05/09/05		4064 - 85Copies	12.75
	05/10/05		2926 - 23Copies	3.45
	05/11/05		2926 - 23Copies	3.45
	05/17/05		9850 - 3Copies	0.45
	05/20/05		9850 - 2Copies	0.30
	05/25/05		7994 - 86Copies	12.90
	06/08/05		2926 - 33Copies	4.95
	06/15/05		9850 - 3Copies	0.45
	06/17/05		2926 - 96Copies	14.40
	07/05/05		2926 - 13Copies	1.95
	07/05/05		2926 - 7Copies	1.05
	08/11/05		2926 - 4Copies	0.60
			007 PHOTOSTATS Total	57.90
010 POSTAGE	07/05/05	0246 RJS	DAVID MCSWEENEY	3.95
			010 POSTAGE Total	3.95
Total Unbilled Disbursement				71.85

**** Disbursement Summary ****

Class	Prior	Current	Total
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Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Page 8

Billing Memorandum

Thru 08/16/05

Client 020973 FRED T. VANDAM

Billing Attorney

0183 KEVIN P. SCANLON

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

**** Disbursement Summary ****

Class	Prior	Current	Total
001 TRAVEL - MILEAGE,PARKING,TOLLS	10.00		10.00
007 PHOTOSTATS	57.30	0.60	57.90
010 POSTAGE	3.95		3.95
Totals	71.25	0.60	71.85

Total Time 8,630.25

Matter Total 8,702.10

Net Matter Total 8,702.10

*** Matter Billing History ***

Bill Number	Bill Date	Type	Thru Date	Relieved Amount	Billed Amount	Retainer Applied	Realization	Paid Amount	Last Payment	Balance Due
35553	03/17/05	Fee Bill	03/17/05	5,722.20	4,504.76		-1,217.44			
35553	03/17/05	Fee CR	03/17/05	-5,722.20	-4,504.76		1,217.44			
35553	03/17/05	Disb Bill	03/17/05	575.64	575.64					
35553	03/17/05	Disb CR	03/17/05	-575.64	-575.64					
35554	03/17/05	Fee Bill	03/17/05	5,722.20	5,765.68		43.48	5,765.68	03/17/05	
35554	03/17/05	Disb Bill	03/17/05	575.64	575.64			575.64	03/17/05	
		Totals		6,297.84	6,341.32		43.48	6,341.32		

Date 08/16/05

BARRON & STADFELD, P.C. - Barron & Stadfeld

Page 9

Billing Memorandum Summary

Thru 08/16/05

Client 020973 FRED T. VANDAM

Billing Attorney

0183 KEVIN P. SCANLON

Matter 000030 INTERPLEADER-105 HOLMES AVENUE,
DORCHESTER

Originating Attorney

0008 THOMAS V. BENNETT

Responsible Attorney

0246 RANDY J. SPENCER

C/O RANDY J. SPENCER
BARRON & STADFELD, P.C.
100 CAMBRIDGE STREET
SUITE 1310
BOSTON, MA 02114

Date Opened: 10/04/04

Contact: (617) 327-0435

Type of Law: 070 - LITIGATION-HOURLY

Comment:

Unbilled		Fees	Disb
Fees	8,630.25	Last entry	08/15/05 08/11/05
Disb	71.85	Billed Thru	03/17/05 03/17/05
Total	8,702.10	Last Bill Date	03/17/05 03/17/05
Retainer	0.00	Bill Amount	5,765.68 575.64
Net Unbilled	8,702.10	Last Payment	03/17/05 6,341.32
Open A/R	0.00	YTD Billed	5,765.68 575.64
Total Investment	8,702.10	YTD Paid	5,765.68 575.64
		Total Billed	5,765.68 575.64
		Total Paid	5,765.68 575.64

Attorney	Time	Value	Disbursement Class	Amount
0113 JOSEPH G. BUTLER	0.20	58.00	001 TRAVEL -	10.00
0142 MICHELLE L. GREENOUGH	0.25	27.50	007 PHOTOSTATS	57.90
0183 KEVIN P. SCANLON	14.20	3,408.00	010 POSTAGE	3.95
0246 RANDY J. SPENCER	31.80	5,088.00		
0254 ANDREW GILBERT	0.65	48.75		
Totals	47.10	8,630.25	Total	71.85

Fees

Disbursements

Amount to be Billed

Amount to be Relieved

Amount to be Anticipated

Amount to be Applied from Retainer